HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, April 16, 2019
86th Legislature, Number 47
The House convenes at 10 a.m.
Part One

Three bills are on the Major State Calendar, three joint resolutions are on the Constitutional Amendments Calendar, and 63 bills are on the General State Calendar for second reading consideration today. The bills and joint resolutions analyzed or digested in Part One of today's *Daily Floor Report* are listed on the following page.

Dwayne Bohac
Chairman
86(R) - 47

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Tuesday, April 16, 2019
86th Legislature, Number 47
Part 1

SUBJECT: Continuing the State Securities Board

COMMITTEE: Pensions, Investments and Financial Services — committee substitute recommended

VOTE: 9 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Lambert, Leach, Wu

0 nays

2 absent — Longoria, Stephenson

WITNESSES: For — (*Registered, but did not testify*: Billy Phenix, Securities Industry and Financial Markets Association)

Against — None

On — Travis Iles and Derek Lauterjung, State Securities Board (*Registered, but did not testify*: Alan Leonard, Sunset Advisory Commission)

BACKGROUND: The State Securities Board was established by the Legislature in 1957 as an independent agency dedicated to protecting the public from securities fraud.

Securities include many types of investments, such as stocks, bonds, interests in oil and gas leases, and other investment contracts. Federal and state entities play a joint role in regulating persons, companies, and offerings in the securities market. The federal Securities and Exchange Commission (SEC) is the primary regulator of this market, but states and other organizations also play key roles in regulating specific products and occupations.

The State Securities Board enforces state law to protect investors from criminal securities activity and fills in regulatory gaps for certain areas of the industry not covered under federal jurisdiction or where regulation is shared among state and federal entities.

Mission. The securities board's mission is to protect investors and ensure a healthy and productive securities market. In order to achieve this mission, the agency:

- registers dealer and investment adviser entities and their employees involved in securities;
- evaluates securities offerings that must be registered or filed with the agency;
- inspects registered investment adviser companies and dealers;
- investigates violations of agency statute and rules, and brings enforcement actions when necessary against both registered and unregistered persons; and
- assists with criminal prosecutions of agency securities cases in state and federal court.

Governance. The board consists of five public members who are not involved in the securities industry. Board members are appointed to six-year terms by the governor, with the advice and consent of the Senate, and the governor selects the board’s chair. The board appoints the securities commissioner to administer the agency's functions.

Funding. The agency collected almost $158 million in revenue and expended about $7 million in general revenue funds and appropriated receipts on programs and administration in fiscal 2017.

Staffing. At the end of fiscal 2017, the agency had 85 staff positions. About 65 percent of the agency’s employees work in Austin, but some are located at agency field offices in Corpus Christi, Dallas, Houston, and Lubbock.

Registration. The agency registers dealers, investment advisers with up to $100 million in assets under management, their employees involved in securities, and their representatives. Dealers are companies or individuals that sell or are otherwise involved in transacting securities, and investment advisers are companies that solicit clients, make analyses, or provide financial advice.

State law exempts certain securities overseen by federal securities regulators from registration with the State Securities Board. Issuers of non-exempt securities must register with or give notice to the board before offering securities in Texas. In fiscal 2017, 99 percent of securities applications, amendments, and renewals processed by the agency were notifications of securities either registered with the SEC or exempted from state securities regulation under federal law.

Criminal enforcement. The securities board investigates unregistered securities, unregistered activities, and securities fraud based on complaints from the public, coordination with law enforcement and regulatory agency counterparts, and proactive monitoring of investment offerings. The agency issues cease-and-desist orders to halt fraudulent activity and refers suspected criminal cases to county and district attorneys for prosecution. County and district attorneys can appoint State Securities Board staff to assist prosecutors in preparing for and arguing these cases, in addition to serving as witnesses.

Administrative compliance and enforcement. The board periodically inspects registrants and investigates complaints to protect or take action against violations of agency rules. The offices and work papers of each registered investment adviser and intrastate securities dealer are inspected by agency staff at least once every five years to ensure compliance with the state Securities Act and agency rules. The agency also conducts investigations based on complaints generated by inspections as well as administrative complaints from the public, other registrants, and the board's regulatory partners.

The State Securities Board would expire on September 1, 2019, unless continued in statute.

DIGEST:

CSHB 1535 would continue the State Securities Board until September 1, 2031.

The bill would authorize the board to provide staff support to county and district attorneys in criminal securities prosecutions and require the board to implement a process to determine the level of resources that could be

provided to support such cases. The bill also would authorize the board to order refunds for violations of agency statute and rules.

The requirement for registered companies to register branch offices would be removed, but the securities board would retain its ability to inspect and monitor branch office activities.

Prosecutorial assistance. CSHB 1535 would allow the State Securities Board to assist a county or district attorney who requested assistance in a criminal prosecution involving an alleged violation of the state Securities Act. Before referring a case to a county or district attorney for prosecution, the securities commissioner would be required to make a determination of the potential board resources, including the number and types of board employees, that would be needed to assist in the prosecution and the availability of those resources.

The board would be required to establish a process enabling the commissioner to determine whether to provide requested assistance to a prosecutor and, if so, the appropriate amount of such assistance. The process would have to require the commissioner to consider:

- whether resources were available, after taking into account any ongoing investigations or criminal prosecutions for which assistance was being provided;
- the seriousness of the alleged violation or violations in the case, including the severity of the harm and the number of victims involved; and
- the state's interest in the prosecution of a particular case and the availability of other methods of redress for the alleged violations, including the pursuit of a civil action.

For a case in which assistance was requested, the board could provide only those resources determined to be available. If a change in circumstances occurred after the board had determined the available resources, the commissioner could reconsider the determination and increase or reduce the resources made available for a case.

At least biennially, the attorney general would be required to review a

sample of criminal cases in which the board provided requested assistance. The review would have to include an evaluation of the board's determination of available resources to support each case being reviewed. The attorney general could report any concerns about the board's provision of assistance to the standing legislative committees with primary jurisdiction over the board.

The board would have to adopt rules necessary to implement the prosecutorial assistance requirements by March 1, 2020.

Reporting requirements. In its required annual report to the governor, the board would have to include a detailed accounting of funds spent by the board providing assistance to county or district attorneys in the criminal prosecution for the violation of securities laws.

The information provided in the report also would have to include a breakdown of cases the board referred for prosecution. This would be broken down by county and district attorney and would have to include the number of cases in which:

- criminal charges were filed;
- prosecution was ongoing; or
- prosecution was completed.

Refund orders. The bill would authorize the securities commissioner to order a regulated person or entity to pay a refund to a client or purchaser of securities as provided in an agreed order or an enforcement order. The refund order could be issued by the commissioner instead of or in addition to the imposition of an administrative penalty or other sanctions.

An ordered refund could not exceed the amount paid to the regulated person or entity by the client or purchaser of securities for a service or transaction. The securities commissioner could not require payment of other damages or estimate harm in a refund order.

Branch office registration. The board would no longer be authorized to collect a branch office registration fee. The bill would not entitle a person to a refund of a registration or other fee paid before the effective date of

the bill.

Standard recommendations. CSHB 1535 would make several changes to statute governing the State Securities Board in order to implement standard Sunset recommendations. These changes would modify board member training requirements, require the implementation of a system to promptly and efficiently act on complaints filed with the board, and require the board to develop a policy to encourage the use of appropriate alternative dispute resolution procedures in certain cases.

The board's procedures related to alternative dispute resolution would have to conform, to the extent possible, to any model guidelines issued by the State Office of Administration Hearings for the use of alternative dispute resolution by state agencies. The board would have to coordinate the implementation of the policy, provide training as needed to implement procedures for negotiated rulemaking or alternative dispute resolution, and collect data concerning the effectiveness of those procedures.

Effective date. The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 1535 would continue the State Securities Board, which plays a critical role in protecting Texas residents from fraudulent or negligent practices by securities professionals and criminal opportunists. The board continues to effectively carry out its mission to protect investors and promote transparency in the securities market and should be continued in statute. Changes to the board proposed by CSHB 1535 would further improve the board's ability to protect Texans and provide effective regulation of certain financial markets.

Prosecutorial assistance. Statute charges the securities board with preventing and detecting violations of the state Securities Act and referring criminal cases to county and district attorneys, who have the primary authority to pursue those cases in court. Agency staff have unique expertise in securities law, so prosecutors regularly ask agency attorneys and financial examiners to assist as special prosecutors and witnesses in criminal cases, a service the agency provides at no cost to the prosecuting authority.

By authorizing the board to provide prosecutorial assistance and requiring the development of a process to determine what board resources were available for this purpose, the bill would encourage the board to responsibly support the prosecution of securities crimes while being mindful of its other statutory responsibilities.

Refund orders. CSHB 1535 would allow the board to include refunds as a part of its agreed orders to resolve enforcement matters. This authority is already available to other regulatory agencies and would give the board an additional, effective enforcement tool for resolving financial disputes between registered entities and their clients.

Branch office registration. CSHB 1535 would remove the duplicative registration of branch office. Dealers and investment advisers are separately required to provide the location and supervisor of each branch office as part of their registration, making the registration of branch offices redundant.

OPPONENTS SAY:

CSHB 1535 would remove branch office registration, which is an important revenue stream for the state's general revenue fund. This revenue source should not be eliminated without replacing it with an alternative source.

NOTES:

According to the Legislative Budget Board, the bill would result in a negative impact of about $850,000 in general revenue related funds through fiscal 2020-21.

SUBJECT: Continuing the Texas Funeral Service Commission

COMMITTEE: Public Health — committee substitute recommended

VOTE: 9 ayes — S. Thompson, Wray, Allison, Frank, Guerra, Lucio, Price, Sheffield, Zedler

0 nays

2 absent — Coleman, Ortega

WITNESSES: For — (*Registered, but did not testify*: Lee Castro)

Against — None

On — (*Registered, but did not testify*: Julie Davis, Sunset Advisory Commission; Janice McCoy, Texas Funeral Service Commission)

BACKGROUND: Established in 1903 as the State Board of Embalming, the Texas Funeral Service Commission (TFSC) regulates the funeral and death care industry with the mission of protecting the public from deceptive practices. TFSC's main functions are:

- licensing funeral directors and embalmers and ensuring compliance with continuing education requirements;
- inspecting and licensing funeral homes, commercial embalming facilities, crematories, and certain cemeteries; and
- investigating and resolving complaints and enforcing statutes and rules.

Governance. TFSC consists of seven members: four public members, two dual-licensed as a funeral director and an embalmer, and one cemetery owner and operator. Members are appointed to staggered, six-year terms by the governor and approved by the Senate. The governor designates the presiding officer for a three-year term that rotates between a public member and industry member. The members choose an assistant presiding officer from public members for a one-year term.

Funding. In fiscal year 2017, TFSC's revenue totaled nearly $1.8 million, mostly from licensing fees. About $76,000 came from sales of TFSC's law book and funeral consumer brochure, and a small amount came through other appropriated receipts. TFSC transferred more than $957,000 in excess of its appropriations to the general revenue fund.

Staffing. TFSC employs 11 full-time employees, all based in Austin. Two staff members travel throughout the state to conduct inspections.

TFSC would be discontinued September 1, 2019, unless continued in statute.

DIGEST:

CSHB 1540 would continue the Texas Funeral Services Commission (TFSC) until 2031, discontinue its regulation of non-perpetual care cemeteries, standardize enforcement processes, and update licensure requirements.

Discontinuing TFSC's regulation of cemeteries. CSHB 1540 would remove TFSC's authority over non-perpetual care cemeteries, which are defined in statute as cemeteries that do not have associated perpetual care trust funds. TFSC would be removed from the process for enforcing cemetery law and would no longer be able to request the attorney general bring an action for injunctive relief to enforce provisions relating to cemeteries.

The bill also would replace the TFSC member who is a cemetery owner or operator with a member who is a crematory owner or operator. This provision would not affect any current TFSC members but would require the governor to appoint a crematory owner or operator in place of the cemetery owner or operator upon the expiration of that member's term.

Inspections and enforcement. TFSC would be required to inspect a crematory or funeral establishment at least once every three years instead of every two years.

The bill would clarify the distinction between a funeral director's first contact with the person authorized to control the disposition of a

decedent's remains and the transport of the body. A funeral director would be permitted to direct an unlicensed person, a provisional license holder, or an embalmer in the removal of a dead human body. At the direction of a justice of the peace or other law enforcement official, a dead human body could be transferred without the direction of a funeral director.

The bill would allow TFSC to exempt a funeral establishment from the requirement that they have a room for embalming preparation if the establishment meets TFSC's requirements for exemption.

Training. The executive director of TFSC would be required to create a training manual and to distribute a copy annually to each member of TFSC. Each member would be required to sign and submit a statement to the executive director that acknowledged that the member had received and reviewed the training manual.

TFSC's training program would be required to add information on the law governing TFSC operations, the functions, rules, and budget of TFSC, and the scope and limitations on TFSC rulemaking authority. TFSC members would be required to complete training added by this bill by December 1, 2019, and would not be permitted to vote, deliberate, or be counted as a member in attendance at a meeting without having completed the training.

Licensing. The bill would establish that allowing or assisting an unlicensed person to engage in crematory services, funeral directing, or embalming violates funeral service law. TFSC would be authorized to bring an action for appropriate injunctive relief against an unlicensed person to enjoin a violation.

TFSC would be permitted to order a license holder who violated funeral service law to pay a refund to the person harmed of up to the full amount paid.

The bill would require, rather than permit, TFSC to adopt a staggered license renewal process. TFSC would be permitted to set renewal fees and late fees by rule. TFSC would be required to permit a crematory applying for a license renewal to submit a written statement stating that its previous application information had not changed.

TFSC would be permitted to issue duplicate licenses as needed for license holders to comply with posting requirements. The bill would repeal TFSC's authority to issue provisional licenses to out-of-state applicants.

Advisory committees. TFSC would be permitted to appoint advisory committees.

Annual report. The bill would require TFSC to prepare an annual, rather than biennial, report describing the commission's activities over the preceding fiscal year. The report would have to include information on licensing, inspection, and enforcement activities, changes to commission policies, and complaint information. TFSC would be required to post the report on its website. The requirement for the annual report would take effect September 1, 2020.

Confidentiality of complaint information. CSHB 1540 would make all complaint and investigation information compiled by TFSC exempt from public information laws or legal requests until dismissal or final resolution. Ongoing complaint or investigation information could be disclosed only to TFSC, its employees involved in license holder discipline, a party to a disciplinary action against the license holder, a law enforcement agency, or a governmental agency if the disclosure was required or permitted by law. TFSC would not be required to release the identity of a complainant who would not testify at a hearing.

The bill would take effect September 1, 2019. The bill would not apply to any conduct, license applications, fees, or exemption requests before the effective date.

SUPPORTERS SAY:

CSHB 1540 would relieve the Texas Funeral Service Commission (TFSC) of certain responsibilities that were not necessary to protect the public, streamline and standardize enforcement processes, and modernize licensure requirements.

Most cemeteries are exempt from state oversight or are regulated by the Department of Banking. TFSC regulation of the state's five non-perpetual care cemeteries is unnecessary and does not protect consumers.

Inspections and a lack of substantive complaints show no need for continued regulation to protect the public. Removing non-perpetual care cemeteries from TFSC regulation would eliminate superfluous state-funded functions.

While the Texas Department of Licensing and Regulation (TDLR) would be capable of handling the responsibilities of TFSC, the latter is a well run agency overall and moving it to TDLR would not result in any cost savings to the state.

OPPONENTS SAY:

CSHB 1540 should discontinue the Texas Funeral Services Commission and transfer its responsibilities to the Texas Department of Licensing and Regulation.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of $1,000 on general revenue related funds through fiscal 2020-21.

SUBJECT: Continuing the Texas Medical Board

COMMITTEE: Public Health — committee substitute recommended

VOTE: 9 ayes — S. Thompson, Wray, Allison, Frank, Guerra, Lucio, Ortega, Price, Sheffield

1 nay — Zedler

1 absent — Coleman

WITNESSES: For — Sheila Page, Texas Association of American Physicians and Surgeons; Michelle Berger, Texas Medical Association; (*Registered, but did not testify*: Nora Belcher, Texas E-Health Alliance; Brian Dittmar, Texas Medical Liability Trust; Bonnie Bruce, Texas Society of Anesthesiologists)

Against — Lawrence Broder; Coleman Hemphill; Richard Massey; Damaris McMalley; Jerome Young

On — Erick Fajardo, Sunset Advisory Commission; Stephen Carlton and Megan Goode, Texas Medical Board; Sheila Hemphill, Texas Right To Know

BACKGROUND: The Texas Medical Board (TMB) licenses and regulates medical practitioners in the state. The board's mission is to protect and enhance the public's health and safety by establishing and maintaining standards of care used in regulating the practice of medicine and ensuring quality health care for Texans through licensure, discipline, and education. In addition to medical licensing and regulation, the medical board also:

- registers and inspects pain management clinics and physicians who perform office-based anesthesia;
- investigates and resolves complaints;
- takes disciplinary action to enforce the board's statutes and rules; and
- monitors compliance with disciplinary orders.

Governing structure. TMB houses four other boards and three advisory committees, with TMB exercising its own policymaking and oversight over the associated boards and committees' rulemaking. TMB is composed of 19 governor-appointed members, including 12 Texas-licensed physicians and seven public members. The Physician Assistant Board, Board of Acupuncture Examiners, Board of Medical Radiologic Technology, and Board of Respiratory Care each consist of nine governor-appointed members.

The advisory committees for perfusionists and medical physicists each have seven members, and the committee for surgical assistants has six. All members of these committees are appointed by the medical board's president.

Staffing. In fiscal 2018, the Legislature lowered the medical board's cap on staff positions by two to 199. The board currently employs about 185 full-time staff, about 20 percent of whom work outside of Austin, with investigators and compliance officers located in five regions across the state.

Funding. In fiscal 2017, the medical board operated on a budget of about $13.9 million and collected about $29.6 million in licensing and renewal fees.

The Texas Medical Board last underwent Sunset review during the 2016-2017 review cycle, during which the 85th Legislature enacted some, but not all, of the Sunset Advisory Commission's recommendations. The 2018-19 Sunset review is limited to the remaining recommendations.

The board would be discontinued on September 1, 2019, unless continued in statute.

DIGEST:

CSHB 1504 would continue the Texas Medical Board (TMB), amend TMB's licensure and enforcement processes, establish a radiologist assistant certificate, and update training for other boards. TMB would be subject to the Texas Sunset Act and would be discontinued on September 1, 2031, unless continued in statute.

Changes in licensing requirements. CSHB 1504 would amend licensure requirements and require the medical board to establish an expedited licensing process for certain applicants.

Background checks. The bill would require the medical board and the Board of Acupuncture Examiners to conduct fingerprint background checks for applicants for licenses and license renewals in the acupuncture and surgical assistant professions.

By September 1, 2021, the medical and acupuncture boards would be required to obtain criminal history record information for persons who, on the bill's effective date, held acupuncture or surgical assistant licenses but who had not undergone fingerprint background checks on their initial license applications.

Expedited licensure. The bill would require the medical board by rule to establish an expedited licensing process for out-of-state applicants who met certain examination requirements.

Enforcement processes.

Inspections and complaint investigations. The bill would require the medical board to maintain a record of the outpatient settings in which physicians provided anesthesia. TMB could establish a risk-based process for its office-based anesthesia inspections in which the board conducted inspections based on the length of time since the equipment and outpatient setting were last inspected and the physician's last inspection.

The bill would authorize the medical board, for good cause, to extend a preliminary complaint investigation for a maximum of 15 days after the required completion date. The bill also would remove a requirement that a formal complaint submitted to TMB be a written affidavit.

Disciplinary actions and proceedings. The bill would allow the board to appeal an administrative law judge's findings of fact and conclusions of law by filing suit in a Travis County district court before the 31st day after the findings and conclusions were issued. After the district court issued a

final order, the board would issue a final order in the case based on the court's final order. The bill would prohibit the respondent from appealing a sanction ordered by the board unless the sanction exceeded the board's published sanctions guidelines.

The bill would revise informal proceedings. Regarding allegations that a license holder violated the standard of care, the panel conducting the informal proceeding would have to consider whether the physician was practicing complementary and alternative medicine. Before providing a copy of each report alleging a license holder had violated the standard of care, the medical board would have to redact any identifying information of an expert physician reviewer other than the reviewer's specialty. The board would be required to adopt new rules necessary to implement the above changes by March 1, 2020.

The bill would prohibit TMB from issuing a remedial plan to resolve a complaint against a license holder more than once every five years.

Physician profiles. The bill would require a physician's board-created public profile to be updated with certain information after:

- a formal complaint was filed against the physician;
- the board issued a final order regarding a formal complaint against the physician;
- the board dismissed a formal complaint against the physician; or
- after the board resolved an investigation and took no action.

In each case, the profile would have to be updated no later than the 10th working day after the action was taken.

On or after the fifth anniversary of the date a remedial plan was issued for a physician, the board would be permitted to remove information regarding the plan from the physician's profile unless the complaint was related to the delivery of health care or more than one remedial plan had been issued to resolve complaints alleging the same violation by the physician, including a complaint unrelated to the delivery of health care.

Radiology. CSHB 1504 would define radiologist and radiologist assistant

and establish a radiologist assistant certificate. "Radiologist" would mean a physician specializing in radiology certified by or board-eligible for certain radiology boards. "Radiologist assistant" would mean a certified advanced-level medical radiologic technologist.

The bill would require the medical radiologic technology board by January 1, 2020, to establish by rule the required education and training for a person to obtain a radiologist assistant certificate. A person who held this certificate would be allowed to perform radiologic procedures under a radiologist's supervision and could not interpret images, make diagnoses, or prescribe any medication or therapy.

Texas Physician Health Program. By January 1, 2020, the bill would require the governing board of the Texas Physician Health Program and the medical board to enter into and adopt by rule a memorandum of understanding to better coordinate services and operations of the program. The memorandum would have to:

- establish performance measures for the program, including the number of participants who successfully complete the program;
- include a list of program services the board would provide; and
- require that an internal program audit be conducted at least once every three years.

The bill would permit the program's governing board to accept gifts, grants, donations, or other things of value from any source, including the United States or a private source, for the program.

Board training. The bill would revise training requirements for members on the TMB, acupuncture, medical radiologic technology, and respiratory care boards. The bill would update each board's required training for current and new members to include information about the scope of and limitations on each board's rulemaking authority. Existing board members would have to complete training not previously completed by December 1, 2019. The executive director of the medical board would be required to create and distribute annually copies of the board's training manual to each respective board member.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 1504 would protect and promote the public health and safety of Texans by continuing the Texas Medical Board (TMB) and improving the board's licensure and enforcement procedures. There is a continuing need to regulate physicians and allied health practitioners to ensure compliance with standards of care.

Background checks. The bill would ensure TMB could effectively monitor all licensees for criminal conduct. Currently, the medical board requires fingerprint-based background checks on all applicants for licensure, but it lacks explicit statutory authority to do so for surgical assistants and acupuncturists. Allowing TMB to perform these background checks for all applicants would ensure consistency between statutory authority and board practices.

Expedited licensure. Establishing an expedited licensing process for physicians would increase mobility within the profession and would help recruit qualified out-of-state physicians. The medical board's current reciprocity process is cumbersome, requiring applicants and board staff to make considerable efforts to satisfy licensing requirements, which can delay physicians' ability to fill immediate health care needs in Texas. Given the state's physician shortages in multiple areas, particularly in rural and underserved areas, the state should encourage more physicians to practice in Texas. Expediting the licensing process for out-of-state physicians would improve access to care while relieving the board's increasing administrative workload.

Inspections and complaint investigations. Allowing the medical board to establish a risk-based approach for its office-based anesthesia inspections would prevent unnecessary disruptions of a physician's practice and duplicate inspections within a short timeframe and would preserve the board's time and resources. A risk-based inspection process would allow the board to focus its efforts on where they are needed most.

Removing the unnecessary affidavit requirement from statute would make filing complaints against licensees easier while maintaining the prohibition on filing a false complaint.

Disciplinary actions and proceedings. Redacting certain identifying information of an expert physician reviewer in the report containing allegations against a license holder would ensure expert anonymity, protect the integrity of the report, and encourage robust physician participation in expert panels.

Texas Physician Health Program. The Texas Physician Health Program, which is the state's peer assistance program, continues to be inhibited by its unclear arrangement with TMB and limited funding sources. Requiring TMB and the program to establish a memorandum of understanding covering services and operations and allowing the program to accept certain funds would help the program achieve its mission of helping licensees safely return to practice. Clarifying the relationship between the program and medical board would help ensure consistency even as staff at each entity changed and would provide additional transparency.

OPPONENTS SAY:

CSHB 1504 would continue the Texas Medical Board (TMB) with a lack of sufficient due process for physicians and consumers, potentially leaving Texans at risk.

Inspections and complaint investigations. The bill should require TMB to include a plain-language description of an alleged violation in the notice provided by the board to a license holder. This would ensure licensees had context and more accurate information about the complaint, which could help them formulate a more meaningful response to the complaint.

The bill should establish a confidential process for the public and physicians to file complaints against the medical board so that individuals would not be afraid to file such complaints against an agency as powerful as TMB. The process should prevent the medical board from taking retaliatory action against the complainant, unless it can be proven that the complaint was made in bad faith.

Disciplinary actions and proceedings. The bill should require TMB to disclose to the physician who is the subject of a review all information or evidence in the board's possession, including exculpatory evidence. This

would ensure a licensee had all available information when preparing a case or weighing settlement options and that the board considered all information when making a decision regarding a physician's license to practice.

NOTES:

According to the Legislative Budget Board, CSHB 1504 would have an estimated positive fiscal impact of $15,000 in general revenue related funds through the fiscal 2020-21 biennium.

SUBJECT: Allowing transfer of retired law enforcement animal to qualified caretaker

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 9 ayes — Nevárez, Paul, Burns, Calanni, Clardy, Goodwin, Israel, Lang, Tinderholt

0 nays

WITNESSES: For — Chris Barnes, Sheriffs' Association of Texas; (*Registered, but did not testify*: Chris Jones, Combined Law Enforcement Associations of Texas; Frederick Frazier, Dallas Police Association; Ray Hunt, Houston Police Officers Union; Walter West II (RET), Republican Party of Texas Senate District 4 Veterans; Jimmy Rodriguez, San Antonio Police Officers Association; Murray Agnew and Micah Harmon, Sheriffs' Association of Texas; Monty Wynn, Texas Municipal League; Jason Vaughn, Texas Young Republicans; Andrew Holley)

Against — None

DIGEST: HJR 96 would amend the Texas Constitution to allow the Legislature to authorize a state agency or a county, municipality, or other political subdivision to transfer a law enforcement dog, horse, or other animal to the animal's handler or another qualified caretaker for free upon the animal's retirement or at another time if it was in the animal's best interest.

The ballot proposal would be presented to voters at an election on November 5, 2019, and would read: "The constitutional amendment to allow the transfer of a law enforcement animal to a qualified caretaker in certain circumstances."

SUPPORTERS SAY: HJR 96 would address concerns that current law is not clear with regard to the retirement of a law enforcement animal to its handler's care upon the animal's retirement. Sections of the Texas Constitution generally prohibit a state entity from transferring valuable property to a private person without payment, and Texas law classifies domestic animals as property, causing confusion as to whether a law enforcement agency can transfer a

retired law enforcement animal into its handler's care for little to no fee. Some counties have been concerned that they would have to hold a public auction to transfer custody of a retired law enforcement animal. HJR 96 is necessary to allow the Legislature to clarify the humane practice of retiring these law enforcement animals to their former handlers.

HJR 96 would honor the bond between a law enforcement animal and its handler by allowing these animals to retire in the homes where they live. Law enforcement K-9s go home with their handler every day while in service, which for some dogs could be around 10 years. For this reason, law enforcement agencies should be allowed to retire these animals to the homes they have been in their entire lives, ensuring the continued humane care for these animals.

OPPONENTS SAY:

No concerns identified.

NOTES:

HB 3063 by Smithee, the enabling legislation for HJR 96, is set for second-reading consideration on today's Major State Calendar.

According to the Legislative Budget Board, the cost to the state for publication of the resolution would be $177,289.

SUBJECT: Amending the Texas Constitution regarding offices of municipal judge

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Leach, Farrar, Y. Davis, Krause, Meyer, Neave, Smith, White

0 nays

1 absent — Julie Johnson

WITNESSES: For —Kevin Madison, Texas Municipal Courts Association; Randy Smith; (*Registered, but did not testify*: Lee Parsley, Texans for Lawsuit Reform)

Against — None

BACKGROUND: Texas Constitution Art. 16, sec. 40 generally prohibits a person from holding more than one paid public office at the same time. There are numerous exceptions for certain offices, such as justice of the peace, county commissioner, or notary public, as well as for members of the military, the reserves, and military retirees. An exception also is provided for an appointed state officer within certain limitations.

Government Code sec. 574.001 allows a person to be appointed to the office of municipal judge for more than one municipality at the same time.

DIGEST: CSHJR 72 would amend the Texas Constitution to allow a person to hold more than one office as municipal judge in more than one municipality at the same time, regardless of whether the person was elected or appointed to each office.

The ballot proposal would be presented to voters at an election on November 5, 2019, and would read: "The constitutional amendment permitting a person to hold more than one office as a municipal judge at the same time."

SUPPORTERS SAY: CSHJR 72 would make it easier for smaller municipalities to have

qualified municipal judges by allowing a person to be elected as a municipal judge in more than one municipality at the same time.

Municipal judges play an important role in the state's court system. However, many smaller municipalities do not have municipal judges or even attorneys qualified to serve as municipal judges. This lack of qualified municipal judges impedes the ability of smaller municipalities to deal with cases such as ordinance violations, domestic cases, and misdemeanor offenses, and could impact public safety by making it more difficult to obtain such things as blood search warrants.

Texas law already permits a person to be appointed as a municipal judge in more than one municipality at the same time. CSHJR 72 merely would extend this treatment to allow a person to be elected as a municipal judge in more than one municipality. This would make it easier for smaller municipalities to fill these judgeships with qualified members of their communities.

OPPONENTS SAY:

No concerns identified.

NOTES:

HB 1717 by White, the enabling legislation for HJR 72, is set for second-reading consideration today on the General State Calendar.

According to the Legislative Budget Board, HJR 72 would have no fiscal implication to the state other than the cost for publication of the resolution, which would be $177,289.

SUBJECT: Increasing CPRIT's bond authority from $3 billion to $6 billion

COMMITTEE: Public Health — favorable, without amendment

VOTE: 7 ayes — S. Thompson, Allison, Guerra, Lucio, Price, Sheffield, Zedler

1 nay — Frank

3 absent — Wray, Coleman, Ortega

WITNESSES: For — David Arthur, Salarius Pharmaceuticals; Jessica Boston, Texas Association of Business; Bernice Joseph; Cathleen McBurney; Andrew Strong; (*Registered, but did not testify*: Bradley Wisdom, American Cancer Society; Marina Hench, American Cancer Society Cancer Action Network; Denise Rose, AstraZeneca; Dana Harris, Austin Chamber of Commerce; Eric Woomer, Biotechnology Innovation Organization; Christina Hoppe, Children's Hospital Association of Texas; Priscilla Camacho, Dallas Regional Chamber; Rebecca Young-Montgomery, Fort Worth Chamber of Commerce; Lindsay Munoz, Greater Houston Partnership; Jim Keffer, Keffer Konsulting; Michelle Wittenburg, KK125 Ovarian Cancer Research Foundation; Lindsay Lanagan, Legacy Community Health; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Holli Davies, North Texas Commission; Amber Pearce, Pfizer; Martin Hubert, Rice University; Jessica Schleifer, Teaching Hospitals of Texas; Nora Belcher, Texas e-Health Alliance; Carlton Schwab, Texas Economic Development Council; Tom Kowalski, Texas Healthcare and Bioscience Institute; Troy Alexander, Texas Medical Association; Charlie Gagen, Texas Public Health Coalition; and 14 individuals)

Against — None

On — (*Registered, but did not testify*: Kristen Doyle and Wayne Roberts, Cancer Prevention and Research Institute of Texas)

BACKGROUND: Under Tex. Const. Art. 3, sec. 67, a constitutional amendment approved by voters in 2007 established the Cancer Prevention and Research

Institute of Texas (CPRIT) to provide grants to support institutions of learning, advanced medical research facilities, and others in the process of finding the causes of all types of human cancer and developing cures from lab research and clinical trials. CPRIT also supports programs to address the problem of access to advanced cancer treatment and to establish appropriate standards to ensure the proper use of funds authorized for cancer research and prevention programs.

The constitutional amendment allowed the Legislature to authorize the Texas Public Finance Authority to provide for, issue, and sell up to $3 billion in general obligation bonds on behalf of CPRIT. Statute limits the issuance of authorized bonds to $300 million each fiscal year.

Under Health and Safety Code sec. 102.254, CPRIT's authority to grant awards expires after August 31, 2022. To date, CPRIT has awarded about 1,300 grants totaling $2.2 billion to about 100 academic institutions, nonprofits, and public companies.

DIGEST:

HJR 12 would amend the Texas Constitution to increase from $3 billion to $6 billion the maximum amount of general obligation bonds that the Texas Public Finance Authority could provide for, issue, and sell on behalf of the Cancer Prevention and Research Institute of Texas.

The ballot proposal would be presented to voters at an election on November 5, 2019, and would read: "The constitutional amendment authorizing the legislature to increase by $3 billion the maximum bond amount authorized for the Cancer Prevention and Research Institute of Texas."

SUPPORTERS SAY:

Reauthorizing the funding and continuing taxpayer support of the Cancer Research and Prevention Institute (CPRIT) under HJR 12 is needed to maintain the agency’s current level of activity and continue Texas’ national leadership in cancer research and prevention.

Although CPRIT has statutory approval to continue making grant awards through fiscal 2022, without added funds it could issue its last awards during fiscal 2020-21. The sustained funding proposed by HJR 12 is necessary to plan and complete research and report on prevention

successes and failures.

Funding CPRIT is an investment into the state economy and worthy of state dollars. Annual grant funding under CPRIT has supported world-renowned scholars, including a 2018 Nobel Prize recipient, and helped make Texas a biomedical center. The multiplier effects of CPRIT's programs have created thousands of jobs, generated billions of dollars in economic activity, and encouraged biotech companies to expand or relocate to the state.

By approving the original bond program in 2007, voters agreed that cancer research was worthy of public investment. CPRIT's efforts have been shown to reduce cancer costs and serve an important state goal by enhancing patients' quality of life, productivity, and lifespans. The substantial benefits to the economy and the health of Texans from the sustainable funding for CPRIT's programs in HJR 12 far outweigh the direct commitment of taxpayer resources and state debt.

HJR 12 would provide voters another opportunity to decide whether a new bond package should be issued to further fund cancer prevention and research programs, which a majority of voters said they would support in a recent poll.

OPPONENTS SAY:

HJR 12 would double the size of the original bond package approved by voters for CPRIT, committing $3 billion more in taxpayer money and increasing state debt.

Funding cancer research is not an essential function of state government, and although CPRIT's mission is noble, bonds require interest and future appropriations which could be better spent on other priorities and more pressing needs. HJR 12 is not necessary at this time because CPRIT has authority to issue the original bonds through the end of fiscal 2022. Instead of asking voters to commit additional taxpayer money, the Legislature should use this time to discuss CPRIT's long-term future, including a plan for it to become financially self-sufficient.

NOTES:

According to the Legislative Budget Board, the joint resolution would have an estimated cost of about $12.5 million in general revenue related

funds for debt service payments through fiscal 2020-21.

SUBJECT: Increasing penalty for assault of a pregnant woman to third-degree felony

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Collier, K. Bell, J. González, Hunter, P. King, Moody, Murr, Pacheco

0 nays

1 absent — Zedler

WITNESSES: For — Doreen Sims, Stop Abuse Campaign; Mary Castle, Texas Values; Kortney Williams (*Registered, but did not testify*: Girien Salazar, Christian Life Commission-Baptist General Convention of Texas; Matthew Williamson, Dallas Police Department; Ellen Williams, Stop Abuse Campaign; Amy O'Donnell and Joe Poiman, Texas Alliance for Life; Michael Barba, Texas Catholic Conference of Bishops; Noel Johnson, Texas Municipal Police Association; Robert Bland; Micah Williams)

Against — None

On — (*Registered, but did not testify*: Shannon Edmonds, Texas District and County Attorneys Association)

BACKGROUND: Penal Code sec. 22.01 makes it a crime under assault to intentionally, knowingly, or recklessly cause bodily injury. Assault involving bodily injury is punished as a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) except under certain circumstances in which it is a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000).

DIGEST: CSHB 902 would make assault involving bodily injury a third-degree felony if the defendant knew that the victim was pregnant at the time of the offense.

The bill would take effect September 1, 2019, and would apply only to

offenses committed on or after that date.

SUBJECT: Revising timelines for analyzing sexual assault kits, auditing untested kits

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — Nevárez, Paul, Burns, Calanni, Clardy, Goodwin, Israel, Lang, Tinderholt

0 nays

WITNESSES: For — Lauren Baker, Delaney Davis, Rhea Shahane, and Tatum Zeko, Deeds Not Words; Jenny Black and Juliana Gonzales, SAFE Alliance; Chris Kaiser, Texas Association Against Sexual Assault; Bertha Lavinia Masters; (*Registered, but did not testify*: Terra Tucker, Alliance for Safety and Justice; Olivia Ott, Austin Justice Coalition; Pete Gallego, Bexar County Criminal District Attorney's Office; Christina Green, Children's Advocacy Centers of Texas Inc.; Chris Jones and Rita Ostrander, Combined Law Enforcement Associations of Texas; Charles Reed, Dallas County Commissioners Court; Terrence Rhodes, Dallas Police Department; Priscilla Camacho, Dallas Regional Chamber; Wendy Davis, Ashka Dighe, Sophie Jerwick, and Andrea Reyes, Deeds Not Words; Aimee Bertrand, Harris County Commissioners Court; Nicholas Chu, Bobby Gutierrez, and Jama Pantel, Justices of the Peace and Constables Association of Texas; Sarah Carriker, League of Women Voters; Stephanie Stephens, Nacogdoches County Attorney; Aimee Arrambide, Blake Rocap, and Jasmine Wang, NARAL Pro-Choice Texas; Will Francis, National Association of Social Workers - Texas Chapter; Charley Wilkison, National Latino Officers Association and Dallas CLEAT; Jamaal Smith, City of Houston Office of Mayor; AJ Louderback, Sheriffs Association of Texas; Ana DeFrates, Survivor Justice Project; Jennifer Allmon, Texas Catholic Conference of Bishops; Linda Phan, Texas Council on Family Violence; Joshua Houston, Texas Impact; Deneen Robinson, The Afiya Center; Kyle Piccola, The Arc of Texas; Noel Johnson, Texas Municipal Police Association; Kirsha Haverlah; Emily Martin; Thomas Parkinson)

Against — None

On — (*Registered, but did not testify*: Skylor Hearn and Michael Lesko, Texas Department of Public Safety; Lynn Garcia, Texas Forensic Science Commission)

BACKGROUND:

Texas currently has a backlog of untested sexual assault kits across the state. Concerns have been raised that evidence from these kits may no longer be admissible in court, potentially denying justice to victims and compromising public safety.

DIGEST:

CSHB 8 would establish the Lavinia Masters Act. It would revise timelines for the possession and analysis of sexual assault examination kits, require an audit and deadlines for the analysis of untested kits, amend preservation guidelines in certain circumstances, and extend the statute of limitations for certain sexual assault offenses.

The bill would apply provisions of the Sexual Assault Prevention and Crisis Services Act (Government Code ch. 420) related to the analysis of sexual assault evidence to a sex offense other then sexual assault. "Sex offense" would mean an offense under Penal Code ch. 21 for which biological evidence was collected.

CSHB 8 would take effect September 1, 2019, and unless otherwise noted would apply only to evidence of sex offenses collected or biological evidence destroyed on or after that date.

Release of sexual offense evidence to authorized persons. If an entity that performed a medical exam to collect evidence of sexual assault or other sex offense received signed, written consent by or on behalf of the survivor to release the evidence, the entity promptly would have to notify any law enforcement agency investigating the alleged offense. A law enforcement agency that received notice would have to take possession of the evidence within seven days, except a law enforcement agency that received notice from a facility more than 100 miles away, which would have 14 days.

The failure of a law enforcement agency to take possession of the evidence within the required period would not affect the authority of:

- the agency to take possession of the evidence;
- the agency to submit the evidence to an accredited crime lab or for the lab to provide results of its analysis; or
- the Department of Public Safety (DPS) or a crime lab to compare the DNA profile obtained from the evidence with DNA profiles in state or federal DNA databases.

If a health care facility or other entity that performed a medical exam had not obtained consent to release the evidence, it would have to provide to the survivor, before the survivor was released from the facility, a written notice with:

- DPS's policy regarding storage sexual assault kits, including that the evidence would be stored for five years before it became eligible for destruction and the policy for notifying the survivor before destruction;
- a statement that the survivor could request the release of the evidence to a law enforcement agency and report a sex offense at any time; and
- contact information both for the law enforcement agency with jurisdiction over the offense and a for local rape crisis center.

Failure to comply with evidence collection procedures or requirements would not affect the admissibility of the evidence in a trial.

Analysis of sexual assault evidence. The bill would require a public accredited crime lab to complete its analysis of any evidence of sexual assault or other sex offense within 90 days of receiving the evidence. Failure to comply with this requirement would not affect the admissibility of the evidence in a trial. This provision would apply only to evidence received on or after January 1, 2021.

DPS would have to compare the DNA profile obtained from biological evidence with profiles in state and federal DNA databases, including CODIS, within 30 days of crime lab analysis of a sexual assault kit. If the kit was analyzed by a public accredited crime lab, the lab rather than DPS

could perform the DNA comparison, provided that the comparison was performed within 30 days of analysis, the law enforcement agency that submitted the kit gave permission, and the lab met applicable federal and state requirements to access the state and federal DNA databases.

DPS could use appropriated funds to employ personnel and purchase equipment and technology necessary to comply with the database comparison requirements under this bill and other state law. DPS would be required to apply for any available federal grants applicable to the analysis of sexual assault kits, including grants available under the National Institute of Justice's DNA Capacity Enhancement and Backlog Reduction Program.

Failure to comply with analysis of sex offense evidence requirements under the bill and Government Code ch. 420, subch. B-1 could be used to determine a law enforcement agency's or crime lab's eligibility for receiving grants from DPS, the Office of the Governor, or another state agency. This would affect eligibility starting January 15, 2020.

Report of unanalyzed sexual assault kits. Each law enforcement agency and public accredited crime laboratory would have to submit a quarterly report to DPS identifying the number of sexual assault examination kits the agency had not yet submitted for analysis or for which a crime lab had not yet completed an analysis.

Audit of unanalyzed sexual assault kits. The bill would require a law enforcement agency in possession of an unanalyzed sexual assault kit collected on or before September 1, 2019, to:

- submit to DPS by December 15, 2019, a list of the agency's active criminal cases for which an eligible kit had not yet been analyzed;
- submit to DPS or a public accredited crime lab by January 15, 2020, all untested sexual assault kits pertaining to those cases; and
- notify DPS of the lab where the kit was sent and the date of and any analysis completed by the lab, if not submitted to DPS.

By September 1, 2020, DPS would have to submit to the governor and appropriate legislative committees a report containing:

- a timeline for the completion of lab analyses of all unanalyzed sexual assault kits submitted by law enforcement agencies;
- application materials and a request for any necessary funding to accomplish the analyses, including for grant money from the Office of the Governor's Criminal Justice Division for related expenses; and
- a proposal for determining which kits should be outsourced and a list of capable labs, if necessary, for timely analyses.

DPS would have to analyze or contract for the analysis of and complete required DNA database comparisons on all untested kits pertaining to active criminal cases by September 1, 2022.

DPS would not be required to use an amount from the state highway fund that exceeded what it historically used in a fiscal year for lab analyses of sexual assault kits. To supplement funding of lab analyses, DPS could solicit and receive grants, gifts, or donations from the federal government or private sources.

The bill's provisions related to the audit would expire September 1, 2023.

Preservation of sexual assault kits. The bill would extend the required preservation period for evidence collected in a sexual assault exam of a victim who had not reported the assault to law enforcement to the earlier of either the fifth anniversary of the date on which the evidence was collected or the date on which written consent to release the evidence was obtained.

A crime lab could destroy the evidence on the expiration of its duty for preservation only if it notified the victim in a trauma-informed manner of the decision to destroy the evidence and a written objection was not received from the victim within 90 days of notification. The lab would have to document its attempt to notify the victim, and DPS would have to develop procedures for notification.

A sexual assault exam kit collected pursuant to an investigation or prosecution of a felony or conduct constituting a felony would have to be

retained and preserved for at least 40 years or until any applicable statute of limitations had expired, whichever period was longer. This would apply regardless of whether a person had been apprehended for or charged with committing the offense.

Statute of limitations. The bill would expand the circumstances under which the offense of sexual assault had no statute of limitation to include all offenses of sexual assault for which biological matter was collected, regardless of whether it had been subjected to DNA testing. This would not apply to an offense if the prosecution became barred by limitation before the bill's effective date.

NOTES:

The Legislative Budget Board notes that the fiscal implications of CSHB 8 cannot currently be determined but would be likely to have a significant negative impact to the General Revenue Fund.

SUBJECT: Allowing direct reimbursement to providers for sexual assault kit exams

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — Nevárez, Paul, Burns, Calanni, Clardy, Goodwin, Israel, Lang, Tinderholt

0 nays

WITNESSES: For — Sophie Jerwick, Rhea Shahane, and Tatum Zeko, Deeds Not Words; Jenny Black, SAFE Alliance; Katherine Strandberg, Texas Association Against Sexual Assault; Bertha Lavinia Masters; (*Registered, but did not testify*: Olivia Ott, Austin Justice Coalition; Christina Green, Children's Advocacy Centers of Texas, Inc.; Rita Ostrander, Combined Law Enforcement Associations of Texas; Charles Reed, Dallas County Commissioners Court; Terrence Rhodes, Dallas Police Department; Jessica Anderson, Houston Police Department; Blake Rocap and Jasmine Wang, NARAL Pro-Choice Texas; Will Francis, National Association of Social Workers-Texas Chapter; Ana DeFrates, Survivor Justice Project; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Linda Phan, Texas Council on Family Violence; Joshua Houston, Texas Impact; Kyle Piccola, The Arc of Texas; Kirsha Haverlah; Emily Martin; Thomas Parkinson)

Against — None

On — Gene McCleskey, Office of Attorney General; Katherine Yoder, Parkland Health and Hospital System; (*Registered, but did not testify*: Michael Lesko, Texas Department of Public Safety; Lynn Garcia, Texas Forensic Science Commission)

BACKGROUND: Code of Criminal Procedure art. 56.06 requires a law enforcement agency that requests a forensic medical exam of the victim of an alleged sexual assault to pay all costs of the examination. On application to the attorney general, the law enforcement agency is entitled to be reimbursed for the reasonable costs of the examination if the exam was performed by a

physician, a sexual assault examiner, or a sexual assault nurse examiner. The attorney general pays for these reimbursements using the crime victims' compensation fund.

Some have suggested that streamlining the administrative process for reimbursing money spent to conduct forensic exams of sexual assault victims could result in fewer administrative burdens for law enforcement and a more efficient process for health care providers.

DIGEST:

CSHB 616 would establish a process for health care facilities, sexual assault examiners, and sexual assault nurse examiners to apply directly to the attorney general for reimbursement for costs associated with the forensic medical examination of a victim of an alleged sexual assault.

A health care facility that provided a forensic medical exam or the sexual assault examiner or sexual assault nurse examiner who conducted the exam would be entitled to reimbursement in an amount set by the attorney general for the reasonable costs of the forensic portion of the exam and the evidence collection kit. The attorney general could use the Crime Victim's Compensation Fund for the reimbursement.

A health care facility would not be entitled to reimbursement under the bill unless the exam was conducted at the facility by a physician, sexual assault examiner, or sexual assault nurse examiner.

An application for reimbursement would have to be in the form and manner prescribed by the attorney general and include certain documentation and a complete and itemized bill of the costs of the forensic portion of the exam. If requested, the attorney general could provide training to a health care facility regarding the process for applying for reimbursement.

A health care provider would have to accept reimbursement from the attorney general as payment for the costs unless an investigation of the costs by the attorney general determined that there was a reasonable health care justification for deviation.

The bill would extend the period during which a sexual assault offense

had to be reported or, if the victim chose not to report the offense, during which the victim had to arrive at a health care facility to be entitled to a forensic medical exam from within 96 hours of the offense to within 120 hours. A law enforcement agency could decline an exam request if the assault was not reported within that period.

If a sexual assault was reported to a law enforcement agency at any time, regardless of whether it was reported within the 120 hour period, the agency would be required to document whether it requested a forensic medical exam and provide the documentation to the victim and the health care facility, sexual assault examiner, or sexual assault nurse examiner that provided services to the victim. The documentation would have to be maintained by the agency in accordance with the agency's record retention policies.

The bill would take effect September 1, 2019, and would apply to a forensic medical exam that occurred on or after that date.

SUBJECT: Designating January 28 as Sexual Assault Survivors Day

COMMITTEE: Culture, Recreation and Tourism — favorable, without amendment

VOTE: 9 ayes — Cyrier, Martinez, Bucy, Gervin-Hawkins, Holland, Jarvis Johnson, Kacal, Morrison, Toth

0 nays

WITNESSES: For — (*Registered, but did not testify*: Tesia Krzeminski, National Alliance on Mental Illness Austin; Allison Franklin, Texas Criminal Justice Coalition; Pamela McPeters, TexProtects, Texas Chapter of Prevent Child Abuse America)

Against — None

DIGEST: HB 2298 would designate January 28 as Sexual Assault Survivors Day in order to bring awareness to the issue of sexual assault and to recognize the courage of survivors throughout the state.

Sexual Assault Survivors Day could be regularly observed by appropriate ceremonies and activities.

The bill would take effect September 1, 2019.

SUBJECT: Including DNA records for certain defendants in the state database

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 9 ayes — Nevárez, Paul, Burns, Calanni, Clardy, Goodwin, Israel, Lang, Tinderholt

0 nays

WITNESSES: For — Eric Carcerano, Chambers County District Attorney's Office; (*Registered, but did not testify*: Rita Ostrander, Combined Law Enforcement Associations of Texas; Jessica Anderson, Houston Police Department; Stephanie Stephens, Nacogdoches County Attorney)

Against — None

On — (*Registered, but did not testify*: Michael Lesko, Texas Department of Public Safety; Lynn Garcia, Texas Forensic Science Commission)

BACKGROUND: The Department of Public Safety (DPS) maintains the state's computerized DNA database under Government Code ch. 411, subch. G. The database's principal purpose is to help criminal justice agencies investigate and prosecute crimes. Sec. 411.1471 requires a person to provide a specimen for the creation of a DNA record after being arrested, charged with, or convicted of certain offenses.

It has been noted that the requirement for certain sex offenders and defendants convicted of certain felony offenses to provide a DNA specimen for the database system does not apply to other related offenses. Some have suggested that the inclusion of a DNA record for these related offenses could provide critical data in linking crimes, preventing repeat offenses, and helping vindicate innocent suspects.

DIGEST: HB 979 would require a person convicted of a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) offense of unlawful restraint, assault, or deadly conduct to provide to a law enforcement agency one or more specimens for the purpose of creating a DNA record

after conviction.

The bill would take effect September 1, 2019, and would apply only to an offense committed on or after that date.

SUBJECT: Requiring sexual violence awareness training for licensed cosmetologists

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 8 ayes — T. King, Goldman, Harless, Herrero, K. King, Kuempel, Paddie, S. Thompson

0 nays

3 absent — Geren, Guillen, Hernandez

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Brian Francis, Texas Department of Licensing and Regulation)

BACKGROUND: Occupations Code sec. 1602.354 requires the Texas Commission of Licensing and Regulation to recognize, prepare, or administer continuing education programs for the practice of cosmetology. The programs are required to include information on human trafficking, including methods for recognizing and assisting potential victims. Participation in these programs is mandatory for all cosmetology license renewals.

DIGEST: CSHB 467 would require existing continuing education programs for licensed cosmetologists to include information on sexual assault and domestic violence awareness.

The Texas Commission of Licensing and Regulation would be required to adopt rules to implement the bill by March 1, 2020. The bill would apply only to continuing education programs provided on or after September 1, 2020.

The bill would take effect September 1, 2019.

SUBJECT: Enhanced penalty for sexual assault against certain family members

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Collier, Zedler, K. Bell, J. González, Hunter, P. King, Moody, Murr, Pacheco

0 nays

WITNESSES: For — Jennifer Sawyer, Dallas County District Attorney's Office; Scott Say, Lamb County and District Attorney; (*Registered, but did not testify*: Jennifer Tharp, Comal County Criminal District Attorney; M Paige Williams, Dallas County District Attorney's Office; Frederick Frazier, Dallas Police Association, State FOP; Jose Carlos Gonzalez, Gonzalez & Associates Homeland Security; Jessica Anderson, Houston Police Department; Jimmy Rodriguez, San Antonio Police Officers Association; Vincent Giardino, Tarrant County Criminal District Attorney's Office)

Against — (*Registered, but did not testify*: Mary Sue Molnar, Texas Voices for Reason and Justice)

BACKGROUND: Penal Code sec. 22.011 establishes the crime of sexual assault. Under sec. 22.011(f) offenses are second-degree felonies (two to 20 years in prison and an optional fine of up to $10,000), except that offenses are first-degree felonies (life in prison or a sentence of five to 99 years and an optional fine of up to $10,000) if the victim was someone the defendant was prohibited from marrying, purporting to marry, or living with under the appearance of marriage under the bigamy statute.

Sec. 22.011(e) establishes an affirmative defense to prosecution under the sexual assault statute in certain cases if the defendant was not more than three years older than the victim at the time of the offense and the victim was a child at least 14 years old and was not someone whom the defendant was prohibited from marrying under the state's bigamy laws.

Sec 25.02 establishes the crime of prohibited sexual conduct with certain family members, also referred to as incest.

Some have suggested that the intent of current law governing sexual assault offenses would be clearer if it referred to family members under the incest statute rather than the bigamy statute, which could be taken to mean that the person who committed the assault had to be married at the time of the assault to be prosecuted.

DIGEST:

HB 667 would raise the penalty for sexual assault from a second degree felony to a first degree felony if the victim was a person with whom the defendant was prohibited from engaging in sex under Penal Code sec. 25.02, which prohibits sexual conduct with certain family members.

The current affirmative defense to prosecution under the sexual assault statute that applies in certain cases when the victim was a child of at least 14 years old and there is no more than a three-year age gap between the victim and defendant would be revised so that it could not be used if the victim was someone with whom the defendant was prohibited from engaging in sex under the state's incest laws.

HB 667 would be known as Melissa's Law.

The bill would take effect September 1, 2019, and would apply only to offenses committed on or after that date.

SUBJECT: Addressing sexual assault at institutions of higher education

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 10 ayes — C. Turner, Stucky, Button, Frullo, Howard, E. Johnson, Pacheco, Smithee, Walle, Wilson

1 nay — Schaefer

WITNESSES: For — Rhea Shahane, Deeds Not Words; Ashka Dighe, Deeds Not Words and Its On Us; Alma Baker, It's On Us; (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings; Bill Kelly, City of Houston Mayor's Office; Alissa Sughrue, National Alliance on Mental Illness-Texas; Eric Kunish, National Alliance on Mental Illness-Austin; Katherine Strandberg, Texas Association Against Sexual Assault; Lindsey Linder, Texas Criminal Justice Coalition; Knox Kimberly, Upbring; Jorge Cruz; Arthur Simon)

Against — None

On — (*Registered, but did not testify*: Rex Peebles and Bill Franz, Texas Higher Education Coordinating Board)

BACKGROUND: Education Code sec. 51.9363 requires public and private institutions of higher education to adopt a policy on sexual assault applicable to students and employees. The statute requires the policies be made available in the institutions' handbooks and on a dedicated web page, be covered during student orientation, and be the subject of a public awareness campaign.

Title IX of the federal Education Amendments of 1972 prohibits discrimination on the basis of sex in education programs receiving federal financial assistance.

DIGEST: CSHB 1735 would repeal Education Code sec. 51.9363 and add a new subchapter under ch. 51 with revised requirements for higher education institution policies on reporting and responding to campus sexual harassment, sexual assault, dating violence, and stalking at the state's

higher education institutions.

The bill would define "dating violence," "sexual assault," and "stalking" as those terms are defined in the federal Clery Act, a 1990 law requiring the disclosure of information about campus crime.

Campus policies. CSHB 1735 would require public and private higher education institutions to establish a policy on sexual harassment, sexual assault, dating violence, and stalking applicable to students and employees. The policy would have to include:

- definitions of prohibited behavior and sanctions for violations;
- a protocol for reporting and responding to reports;
- measures to protect victims from retaliation during the disciplinary process;
- a statement emphasizing the importance of victims going to a hospital for treatment and preservation of evidence as soon as practicable;
- the victim's right to report the incident to the institution and to receive a prompt and equitable resolution; and
- the victim's right to choose whether to report a crime to law enforcement, to be assisted by the institution in reporting a crime, or to decline to report a crime to law enforcement.

The policy would have to be approved by the institution's governing board and reviewed every biennium and revised if necessary. It would need to be made available in student and personnel handbooks and on a web page dedicated solely to the policy.

Institutions would have to require entering freshmen and undergraduate transfer students to attend an orientation on the policy before or during the student's first semester. The orientation could be provided online and would emphasize the importance of a victim going to a hospital for treatment and preservation of evidence and the victim's rights to report the incident to the institution and law enforcement.

Prevention and outreach. CSHB 1735 would require institutions to

develop and implement a comprehensive prevention and outreach program, which would address prevention strategies, including victim empowerment, public awareness, bystander intervention, and risk reduction. The program would have to provide students information about reporting protocols, including the name, office location, and contract information of the institution's Title IX coordinator by emailing the information to students at the beginning of each semester and including it in the required orientation.

To the greatest extent practicable based on an institution's number of counselors, institutions would have to ensure that each alleged victim or alleged perpetrator of an incident and any other person who reported an incident were offered counseling provided by a counselor who did not provide counseling to any other person involved in the incident. Institutions also would have to allow an alleged victim or alleged perpetrator of an incident to drop a course in which both were enrolled without any academic penalty.

The bill would retain existing Education Code requirements that institutions provide an electronic reporting option. It also would retain a prohibition on an institution taking any disciplinary action against a student enrolled at the institution who in good faith reports being the victim of, or a witness to, an incident.

Requests not to investigate. If an alleged victim of an incident requested the institution not to investigate it, the bill would allow institutions to investigate in a way that complied with confidentiality requirements. When determining whether to investigate, the institution would have to consider:

- the seriousness of the alleged incident;
- whether the institution had received other reports of incidents committed by the alleged perpetrator or perpetrators;
- whether the alleged incident posed a risk of harm to others; and
- any other factors the institution deemed relevant.

If the institution, based on the victim's request, decided not to investigate the alleged incident, it would have to inform the victim and take any steps

it deemed necessary to protect the health and safety of its community.

Disciplinary process for certain violations. An institution that initiated a disciplinary process against an enrolled student who allegedly violated the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking would be required to take certain steps. It would have to provide the student and the alleged victim a prompt and equitable opportunity to present witnesses and other relevant evidence during the disciplinary process. It also would have to ensure that both had reasonable and equitable access to all relevant evidence in the institution's possession, redacted as necessary to comply with federal or state confidentiality laws. This would include any statements by the victim or other persons, information stored electronically, written or electronic communications, social media posts, or physical evidence.

The institution also would have to take reasonable steps to protect the student and the alleged victim from retaliation and harassment during the disciplinary process.

Student withdrawal or graduation pending disciplinary charges. If a student with a pending disciplinary charge alleging the violation of an institution's code of conduct regarding an incident withdrew or graduated, CSHB 1735 would prohibit the institution from ending the disciplinary process or issuing a transcript to the student until it made a final determination of responsibility. The institution also would have to expedite its disciplinary process to accommodate both the student's and the alleged victim's interest in a speedy resolution. The bill would require an institution to provide information to another institution, upon request, relating to a determination that a student violated the code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking.

Trauma-informed training. Peace officers employed by a higher education institutions would have to complete training on trauma-informed investigation into allegations of sexual harassment, sexual assault, dating violence, and stalking.

Memoranda of understanding. Institutions would have to enter into a memorandum of understanding with one or more local law enforcement

agencies, advocacy groups, and hospitals or other medical resource providers to facilitate effective communication and coordination on allegations.

Designated employees. CSHB 1737 would require an institution to designate one or more employees to be responsible for Title IX. An institution would have to designate one or more employees as persons to whom students could speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking. Each enrolled student would have to be informed of the responsible and confidential employees.

An institution could designate one or more students as student advocates to whom other students could speak confidentially. An institution that designated student advocates would have to notify each enrolled student of the advocates.

Confidentiality. The bill would provide protections of confidentiality to an alleged victim, a person who reported an incident, and a person alleged to have committed or assisted in an incident determined by an institution to be unsubstantiated or without merit. Certain identity disclosures could be made to the institution, or a law enforcement officer as necessary to conduct an investigation. Disclosure also could be made to a health care provider in an emergency situation. A medical provider employed by an institution could share information only with the victim's consent.

Compliance. If the Texas Higher Education Coordinating Board determined an institution was not in substantial compliance with the bill, it would have to report the institution to the Legislature for consideration of whether to reduce state funding for the following academic year. If the determination of substantial noncompliance involved a private or independent institution, the coordinating board could assess an administrative penalty not to exceed the institution's funding from tuition equalization grants for the preceding academic year or $2 million, whichever was greater. In determining the penalty amount, the coordinating board would have to consider the nature of the violation and the number of students enrolled at the institution.

The coordinating board would have to provide an institution with written

notice of its reasons for taking action and the institution could appeal. A private or independent institution could not pay an administrative penalty using state or federal money. Administrative penalties would be deposited to the credit of the state's sexual assault program fund.

The commissioner of higher education would be required to establish an advisory committee to recommend rules to implement the bill and to develop recommended training. The commissioner would appoint nine members to the advisory committee, each of whom would have to be a chief executive officer of an institution or a representative designated by that officer.

Equal access. In implementing the requirements of CSHB 1735, an institution would be required, to the greatest extent practicable, to ensure equal access for students or employees who were persons with disabilities. An institution would have to make reasonable efforts to consult with a disability services office of the institution, advocacy groups, and other relevant stakeholders to assist with compliance.

Effective date. The changes in law made by the bill would apply beginning August 1, 2020.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 1735 would ensure Texas public and private institutions of higher education had safe and equitable policies in place to address campus sexual assault, sexual harassment, dating violence, and stalking. It would provide a comprehensive update to the required policies and procedures for institutions to prevent and respond to alleged incidents. It would educate students on prevention, support survivors, and treat all parties to a fair disciplinary process.

The bill would not create a significant administrative burden on most colleges and universities, which already have policies in place that could be approved by the Texas Higher Education Coordinating Board. While some have expressed concern that the state should not interfere with the

policies of private institutions, such institutions already are subject to many state laws. Some private institutions also receive state financial aid for students and should be required to provide the same level of protection against sexual misconduct.

The bill would address a significant problem on Texas campuses. A 2017 University of Texas study found 15 percent of undergraduate women reported being victims of sexual assault and more than 25 percent had experienced unwanted sexual touching. The bill would improve confidence in campus systems for reporting incidents by designating employees and student advocates to whom students could report violations or speak confidentially and provide trauma-informed investigation training to campus police.

While some have expressed concerns that investigations of possible criminal conduct should be made by law enforcement and not by institutions of higher education, colleges and universities have the legal right to sanction students for conduct code violations provided they ensure due process. They have an interest in expediently addressing campus safety, while criminal investigations and prosecutions can take a long time to resolve. CSHB 1735 would require fair investigations by codifying the rights of all parties to access evidence and present witnesses. It also would require institutions to enter into memoranda of understanding with local law enforcement agencies to facilitate coordination on investigations.

The bill would not conflict with provisions in federal Title IX law or proposed guidance from the U.S. Department of Education. It would set minimum standards that guarantee all students a set of safe and equitable procedures addressing sexual violence.

OPPONENTS SAY:

CSHB 1735 would create an administrative burden on higher education institutions that already have effective policies in place for reporting and responding to allegations concerning sexual misconduct, dating violence, and stalking. These institutions should retain the discretion to update and rewrite their policies as needed instead of having the state mandate policies for all.

In addition, it is not the role of state government to intervene in the

student conduct policies of private institutions, as CSHB 1735 would do.

It is the long-established role of law enforcement to investigate and prosecute crimes, and debate is ongoing about how much schools should be handling allegations involving potential criminal conduct. The bill could result in violations of the constitutionally guaranteed due process rights of alleged perpetrators by allowing institutions to determine responsibility for an incident.

SUBJECT: Prosecution in various counties of continuous violence against the family

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Collier, Zedler, K. Bell, J. González, Hunter, Moody, Murr, Pacheco

0 nays

1 absent — P. King

WITNESSES: For — Mark Gonzalez, Nueces County District Attorney; Matt Manning, Nueces County District Attorney; Rumaldo Solis, Nueces County District Attorney's Office; Doreen Sims, Stop Abuse Campaign; Rachel Pesek; (*Registered, but did not testify*: Joseph Chacon, Austin Police Department; Rita Ostrander, Combined Law Enforcement Associations of Texas; Frederick Frazier, Dallas Police Association, State FOP; Matthew Williamson, Dallas Police Department; Richard Jankovsky III, DPS Officers Association; Jimmy Rodriguez, San Antonio Police Officers Association; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Krista Del Gallo and Linda Phan, Texas Council on Family Violence; Noel Johnson, Texas Municipal Police Association; Robert Bland; Melanie Greene; Jennifer Price)

Against — None

BACKGROUND: Code of Criminal Procedure ch. 13 establishes where crimes are to be prosecuted. Under art. 13.18, if venue is not specified, prosecutions occur in the county in which the offense was committed. Other articles in ch. 13 list variations from this for specific offenses.

Penal Code sec. 25.11 makes continuous violence against the family a crime. It is a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) to engage, within a 12-month period, two or more times in the crime of assault with bodily injury against a family member, household member, or dating partner.

Some suggest that it could be unclear where a case of continuous family violence should be prosecuted if assaults took place in more than one county.

DIGEST:

CSHB 1661 would allow the offense of continuous violence against the family to be prosecuted in any county in which the defendant committed assault against a family member, household member, or a dating partner.

If the case were tried before a jury, jurors would not have to agree on the county in which each instance of assault occurred.

CSHB 1661 could be cited as "Rachel's Law."

The bill would take effect September 1, 2019, and would apply to offenses committed on or after that date.

SUBJECT: Fifteen-year retention of medical exam records of sexual assault victims

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — S. Thompson, Wray, Allison, Coleman, Frank, Guerra, Ortega, Price, Sheffield, Zedler

0 nays

1 absent — Lucio

WITNESSES: For — (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings; Chris Kaiser, Texas Association Against Sexual Assault; Deneen Robinson, The Afiya Center)

Against — None

On — Sonja Eddleman; (*Registered, but did not testify*: Kristi Jordan and Rachel Turner, Health and Human Services Commission; Steve Wohleb, Texas Hospital Association)

BACKGROUND: Health and Safety Code sec. 241.103 authorizes hospitals to dispose of a patient's medical records 10 years after the patient was last treated in the hospital.

Occupations Code sec. 153.003 requires the Texas Medical Board to establish through rules the period for which physicians must maintain patient records.

Some have questioned whether the 10-year time frame for retaining medical records is long enough, as there currently is a large backlog of sexual assault kits to be tested and information contained in the medical records could be important in the criminal justice process.

DIGEST: CSHB 531 would prohibit hospitals from destroying medical records from forensic medical examinations of sexual assault victims until 15 years after the record was created.

Rules adopted by the Texas Medical Board on the retention of patient records would have to prohibit a physician from destroying a medical record from a forensic medical examination of a sexual assault victim until 15 years after the record was created.

The bill would take effect September 1, 2019, and would apply only to medical records created on or after that date.

SUBJECT: Changing notification date for enrollment in Healthy Texas Women

COMMITTEE: Public Health — favorable, without amendment

VOTE: 10 ayes — S. Thompson, Wray, Allison, Coleman, Frank, Lucio, Ortega, Price, Sheffield, Zedler

0 nays

1 absent — Guerra

WITNESSES: For — Adriana Kohler, Texans Care for Children; (*Registered, but did not testify*: Juliana Kerker, American College of Obstetricians and Gynecologists-Texas District; Stacey Pogue, Center for Public Policy Priorities; Kaycee Crisp, Laura Lee Daigle, Lindsay Liggett and Tegra Swogger, Circle Up United Methodist Women; Erica Ding, Melinda Soeung, and Alyssa Thomason, Doctors for Change; Roberto Haddad, Doctors Hospital at Renaissance; Aimee Bertrand, Harris County Commissioners Court; Lindsay Lanagan, Legacy Community Health; Annalee Gulley, Mental Health America of Greater Houston; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Alissa Sughrue, National Alliance on Mental Illness (NAMI) Texas; Eric Kunish, National Alliance on Mental Illness Austin; Will Francis, National Association of Social Workers-Texas Chapter; Tom Banning, Texas Academy of Family Physicians; Jamie Dudensing, Texas Association of Health Plans; Jennifer Biundo, Texas Campaign to Prevent Teen Pregnancy; Cameron Duncan, Texas Hospital Association; Michelle Romero, Texas Medical Association; Erika Ramirez, Texas Women's Healthcare Coalition; Jason Vaughn, Texas Young Republicans; Jennifer Lucy, TexProtects; Alexis Tatum, Travis County Commissioners Court; Nataly Sauceda, United Ways of Texas; and 21 individuals)

Against — None

On — (*Registered, but did not testify*: Viveca Martinez, Health and Human Services Commission; Rebecca Parma, Texas Right to Life)

BACKGROUND:

Government Code sec. 32.0248, which expired September 1, 2011, established a demonstration project for women's health care services that expanded access to preventive health and family planning services for low-income women.

A similar program has been operated by the Health and Human Services Commission (HHSC) since 2016 as the "Healthy Texas Women program." Certain pregnant women who are eligible for Medicaid are enrolled in the program on the day after their Medicaid coverage ends, two months after the end of their pregnancy. HHSC notifies women by mail that they have been enrolled in the program.

Some suggest that due to the timing of the automatic enrollment notification, many women are unaware that they are enrolled in the Healthy Texas Women program and few take advantage of the program's services.

DIGEST:

HB 1589 would define the "Healthy Texas Women program" as a program operated by the Health and Human Services Commission (HHSC) that is substantially similar to the demonstration project operated under Government Code sec. 32.0248, which expired September 1, 2011.

The bill would require HHSC to provide written notice to a woman who was a recipient of Medicaid during her pregnancy that:

- the woman had continuous coverage under Medicaid through the second month after her pregnancy ended;
- the woman's eligibility for enrollment in the Healthy Texas Women program would be determined about 30 days after the date the women's pregnancy ended; and
- if the woman was determined eligible for the Healthy Texas Women program, she would be automatically enrolled and her coverage would begin the day after her Medicaid coverage ended.

The executive commissioner of HHSC would be required to consult with the Maternal Mortality and Morbidity Task Force to determine when and how the notice of Healthy Texas Women program coverage should be provided to women. If feasible, the commission would provide the notice

to a woman before the third trimester of her pregnancy.

If a state agency determined that a waiver or authorization from a federal agency was necessary for implementation of any provision of the bill, the state agency would be required to request the waiver and could delay implementation of the waiver or authorization until granted.

HHSC would adopt rules required to implement the bill by January 1, 2020.

The bill would take effect September 1, 2019.